

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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THADDEAS VONDERRICK BICKHAM,

Plaintiff,

v.

CITY OF GRAND RAPIDS, *et al.*,

Defendants.

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Case No. 1:05-CV-18

Hon. Richard Alan Enslin

**ORDER OF DISMISSAL**

This Court has previously granted multiple extensions to Plaintiff Thaddeus Vonderrick Bickham pursuant to Federal Rule of Civil Procedure 4(m). The Court has also afforded Plaintiff with discovery and has provided available information to the United States Marshals Service for the purpose of serving Timothy Brand and Regina Buffman. Notwithstanding, service has not been completed. Neither has Plaintiff provided the Court with additional information to cause service. The Court on July 21, 2006 ordered Plaintiff to show cause why the claims against those Defendants should not be dismissed due to a failure of service.

Plaintiff has argued that the holding in *Byrd v. Stone*, 94 F.3d 217, 219 (6th Cir. 1996) requires a finding of “automatic good cause” in this instance because the Marshals Service was assigned the duty of service for an indigent person.

This case, unlike *Byrd*, does not consider a simple failure by the Marshals Service. *Byrd* is distinguishable because this case considers a different problem—what the Court should do when the Marshals Service’s best efforts are ineffective to cause service. Because Rule 4(m) does not permit indefinite extensions due to failed service when Defendants cannot be located and when there is no

reason to believe that service can be completed, the Court must necessarily dismiss the claims against these Defendants without prejudice pursuant to Rule 4(m) to avoid the waste of judicial resources. *See also VanDiver v. Martin*, 304 F. Supp. 2d 934, 941-42 (E.D. Mich. 2004).

**THEREFORE, IT IS HEREBY ORDERED** that all claims against Defendants Timothy Brand and Regina Buffman are **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

DATED in Kalamazoo, MI:  
August 31, 2006

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE